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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,300	11/14/2003	Jean Pierre Perron	85194-102 ADB	8858

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ADE & COMPANY
1700-360 MAIN STREET
WINNIPEG, MB R3C3Z3
CANADA

EXAMINER

WOOD, KIMBERLY T

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/712,300

Applicant(s)

PERRON, JEAN PIERRE

Examiner

Kimberly T. Wood

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,6,7,23-33 is/are pending in the application.
- 4a) Of the above claim(s) 26-28,31 and 32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,6,7,23-25,29, 30, and 33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☒ Other: Attached Figs.

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This is an office action for serial number 10/712,300, entitled Bracket For Supporting Articles on a Wall, filed on November 14, 2003.

Election/Restrictions

Newly submitted claims 26-28, 31, and 32 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: a wall including a vertical stud and sheathing does not have to be used with the bracket. The bracket does not have to be used with the wall because it can be used on a door or a any other vertical or horizontal surface.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 26-28, 31, and 32 withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 112

Claim 1, 6, 7, 23-25, and 33 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not

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described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The limitation "receptacle being located at a junction between the second end wall and the bottom wall and inwardly of the second end wall" fails to comply with the enablement requirement. The examiner can not determine how the receptacle can be located at the second end wall and inwardly of the second end wall. The examiner can not determine within the claim what is the receptacle base on this limitation (28 of specification or 26 of specification).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 6, 7, and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Marontate 3,284,040 in view of Whitehead et al. (Whitehead) 5,706,737. Marontate discloses a bracket body having top wall (22), a receptacle (34) with cylindrical

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member (12), bottom wall (28) which converges toward top wall, first end wall (14), the fastening portion having fastener receiving holes including a first (16) and second set of holes (18 and 20), a center wall (24 and 30), stiffening wall (38).

Marontate discloses all of the limitations of the claimed invention except for the bottom wall second portion. Whitehead teaches that it is known to have a bottom portion including a second portion (see attached figure) at a second end (see attached figure) so as to define a concave portion (31) of the bottom wall. It would have been obvious to one having ordinary skill in the art to have modified Marontate to have included the second portion and a second end wall as taught by Whitehead for the purpose of operating as a hook for placement of various sporting items. The modification of Marontate in view of Whitehead would result in the bottom wall having a second end wall being spaced from the top wall by a greater distance than an adjacent end of the first portion of the bottom wall (see figure 6 of Larson, similar to what Marontate combined with Whitehead would look like but without the detent 31 of Whitehead).

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 23-25, 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marontate 3,284,040 in view of Whitehead 5,706,737, as discussed above, in further view of Follows 4,285,484. Marontate in view of Whitehead discloses all of the limitations of the claimed invention except for the a third set of holes. Follows teaches that it is known to have a first end wall (32), and a second end wall (6) being parallel to the first end wall, a top wall (4), and a bottom (at the bottom of element 2) a receptacle (12) being located at a junction between the second end wall and the bottom wall and inwardly of the second end wall. Follows teaches that it is known to have holes (16) spaced along the device and less than four inches apart for attaching the assembly to a wall. It would have been obvious to one having ordinary skill in the art to have modified Marontate in view of Whitehead to have included a set of holes

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spaced apart and by less than four inches for the purpose of providing the device with a stable securement to a wall or vertical surface. Marontate teaches the primary limitation of a set of holes and the combination of Follow provides the limitation of using Marontate set of holes to be spaced less than four inches apart from the first set of holes (16) at the first end wall (14). It would have been obvious to one having ordinary skill in the art at the time of the invention to have modified Marontate to have included the second end wall being parallel to the first end wall as taught by Follows for the purpose of preventing the cylindrical member from being accidentally removed from the device.

Claim 33 rejected under 35 U.S.C. 103(a) as being unpatentable over Marontate 3,284,040 in view of Follows 4,285,484. Marontate discloses all of the limitations of the claimed invention except for the second end wall connecting an outer end of the top wall to an outer end of the bottom wall and the receptacle being located at a junction between the second end wall and the bottom wall and inwardly of the second end wall. Follows teaches that it is know to have a first end wall (32), and a second end wall (6) being parallel to the first end wall, a top wall (4), and a bottom (at the bottom of element 2) a receptacle (12) being located at a junction between the second

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end wall and the bottom wall and inwardly of the second end wall. It would have been obvious to one having ordinary skill in the art at the time of the invention to have modified Marontate to have included the second end wall as taught by Follows for the purpose of preventing the cylindrical member from being accidentally removed from the device.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The prior art discloses conventional brackets for shelves or rod members.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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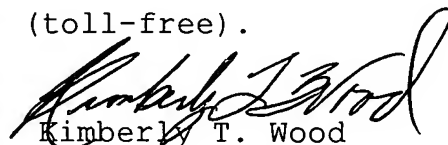
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly T. Wood whose telephone number is 703-308-0538. The examiner can normally be reached on Monday-Thursday 7:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on 703-308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kimberly T. Wood
Primary Examiner
Art Unit 3632

March 7, 2005

